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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,912	12/08/2000	Eric Allan Bier	1508-3220	1180
7590 Gunnar G. Leinberg, Esq. NIXON PEABODY LLP Clinton Square P.O. Box 31051 Rochester, NY 14603				
EXAMINER NGUYEN, CHAU T				
ART UNIT		PAPER NUMBER		
2176				
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05/12/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 09/731,912	Applicant(s) BIER, ERIC ALLAN
Examiner CHAU NGUYEN	Art Unit 2176

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 18 April 2008. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-3, 5-13, 15, 16, 18-21, 23-34, 37, 38, 41, 42 and 45-48.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Rachna S Desai/
Primary Examiner, Art Unit 2176

Continuation of 11, does NOT place the application in condition for allowance because: In the remarks, Applicant(s) argued in substance that

A) Applicant(s) pointed out paragraphs [0011], [0040], and [0054], Fig. 5 at 140 and 160 in the published application for supporting the limitations "a content item editing merging device that determines in real-time whether a content item modified by an author is compatible with the template information edited by the user during the content item modification, adjusts one or more parts of the modified content item to re-establish compatibility with the edited template information based on the determination."

In reply to argument A, the examiner disagrees regarding paragraph [0011] for supporting the above limitation (see the Final rejection dated 10/18/2007). Paragraph [0040] discloses "the template edit device determines if the web page is locked" and "the template edit device compares the new template with the original template", paragraph [0054] discloses "it is possible for the page author to modify an item template at the same time that the contributor is adding or editing items to a page" and these limitations are not the same with "a content item editing merging device that determines in real-time whether a content item modified by an author is compatible with the template information edited by the user during the content item modification, adjusts one or more parts of the modified content item to re-establish compatibility with the edited template information based on the determination". Therefore, the examiner's still maintained the 35 U.S.C 112, first paragraph rejection.

B) Neither Chang, Giljum nor Zhu, alone or in combination, teach or suggest "a content item editing merging device that determines in real-time whether a content item modified by an author is compatible with the template information edited by the user during the content item modification, adjusts one or more parts of the modified content item to re-establish compatibility with the edited template information based on the determination, and merges the adjusted content item with the edited template information back into the electronic document."

In reply to argument B, the examiner's interpreted the above limitation as the meaning of paragraph [0011] which is "by performing a check, upon completion of editing of one or more elements within a web page, the updated web page is merged with the "live" version of the web page." Therefore, Chang and Zhu teach this interpreted limitation (see pages 6-7 of the rejection dated 10/18/2007).

C) Prior art does not teach "a template edit merging device that merges a modified item template back into the electronic document even if the user edits the content of one or more items managed by the item template in real-time, while the item template is simultaneously being modified or updated by the author."

In reply to argument C, this limitation is a newly amended limitation, which requires further search and/or consideration.